

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DANNY T. LAWVER,

Plaintiff,

v.

DEPARTMENT OF
CORRECTIONS, STATE OF
NEBRASKA, RYAN MAHR, and
ROBERT HOUSTON, Director of
the Department of Corrections in
their individual and official
capacities,

Defendants.

8:07CV100

**MEMORANDUM
AND ORDER**

This matter is before the court on its own motion. On April 23, 2008, the court dismissed the plaintiff's claims and entered judgment in favor of the defendants. ([Filing Nos. 44](#) and [45](#).) On May 16, 2008, the plaintiff filed a Notice of Appeal of the court's Judgment. ([Filing No. 46](#).) However, when he filed the Notice of Appeal, the plaintiff did not submit the appellate filing fee of \$455.00, nor did he submit a motion to proceed in forma pauperis ("IFP"). ([Filing No. 47](#).) The plaintiff is not a prisoner and has previously been granted leave to proceed IFP.

1Fed. R. App. P. 24(a)(3) states:

(a) Leave to Proceed in Forma Pauperis

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless the district court – before or after the notice of appeal is filed– certifies that the appeal is not taken in good

faith or finds that the party is not otherwise entitled to proceed in forma pauperis. In that event, the district court must state in writing its reasons for the certification or finding.

The court finds that the plaintiff's appeal is taken in good faith. Although the plaintiff did not submit a motion for leave to proceed on appeal IFP, because the plaintiff proceeded IFP in the district court, he may now "proceed on appeal in forma pauperis without further authorization."

IT IS THEREFORE ORDERED that:

1. the plaintiff is permitted to proceed on appeal in forma pauperis.
2. the Clerk of the court shall process the appeal and provide the Court of Appeals with a copy of this Memorandum and Order.

Dated May 27, 2008.

BY THE COURT

s/ Warren K. Urbom
United States Senior District Judge